HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
and
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

Contempt Case No.777 OF 2007

Between:
Dr.Nuzhat Shahnaz

..... Petitioner

AND

P.K.Agarwal
The State of Andhra Pradesh rep by its
Principal Secretary,
Department of AYSH, Secretariat,
Hyderabad and another.

.....Respondents

::ORDER::

Counsel for the Petitioner : Sri Abhinandkumar Shavali

Counsel for respondents : Government Pleader for

Medical and Health.

Dated 19/9/2007

Per G.S.Singhvi, CJ

In this petition filed under Sections 10 to 12 of the Contempt of Courts Act 1971, the petitioner has prayed that the non-petitioners be punished because they have violated order dated 10.4.2007 passed in W.P.M.P.No.4875 of 2007 in W.P.No.2825 of 2007.

In the writ petition filed by her, the petitioner has questioned the legality and correctness of order dated 22.1.2007 passed by the Andhra Pradesh Administrative Tribunal (for short, 'the Tribunal') in M.A.No.2948 of 2006 in O.A.No.3867 of 2006, whereby her prayer for issue of a direction to the respondents to post her as Lecturer in Government Nizamia Tibbi College or Hospital was rejected.

While issuing notice of the writ petition, the Division Bench passed order dated 10.4.2007 in WPMP No.4875 of 2007. That order reads as under:

> "This petition is filed to consider the case of the petitioner for posting her as a Lecturer in Government Nizamia Tibbi College or Hospital, Hyderabad against roster point No.10 earmarked for BC-B.
>
> Heard learned counsel for the petitioner and the learned Govt. Pleader.
>
> In the circumstances, the respondents are directed to consider the case of the petitioner for Lecturer in Govt. Nizamia Tibbi College or Hospital, if she is eligible for the same."

On 11.9.2007, we had, after taking cognizance of the averments contained in the affidavit filed in support of the contempt case, asked Sri A.Satya Prasad, learned Special Government Pleader to find out from the non-petitioners whether or not the case of the writ petitioner was considered for the post of Lecturer in Government Nizamia Tibbi College or Hospital.

Today, the learned Government Pleader for Services-I produced photostat copy of order dated 11.9.2007 passed by Commissioner, Department of AYUSH, Andhra Pradesh whereby the petitioner's

representation for consideration of her case for posting as Lecturer in Government Nizamia Tibbi College or Hospital was rejected.

Sri Abhinandkumar Shavali, learned counsel for the petitioner made efforts to convince us that the manner in which the non-petitioners have dealt with the petitioner's claim for posting in Government Nizamia Tibbi College or Hospital, Charminar, Hyderabad is sufficient for drawing an inference that both the non-petitioners have deliberately flouted the interim direction given by the Court, but having critically examined the entire record, we are convinced that failure of the non-petitioners to pass appropriate order in the matter of consideration of the petitioner's case for posting as Lecturer in Government Nizamia Tibbi College or Hospital Charminar cannot be termed as deliberate or ill-motivated so as to make them liable for punishment under Section 2(b) of the Contempt of Courts Act, 1971. A reading of order dated 11.9.2007 shows that non-petitioner No.2 has taken decision after duly considering the petitioner's claim for posting in Government Nizamia Tibbi College or Hospital. Therefore, the non-petitioners cannot be held guilty of having committed contempt of court.

With the above observation, the contempt case is closed leaving the petitioner free to challenge order dated 11.9.2007 before an appropriate forum.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

17.9.2007

msv